



(Billing Code 5001-06-P)

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

Acquisition of Items for which Federal Prison Industries has a Significant Market Share

AGENCY: Department of Defense (DoD).

ACTION: Notice.

SUMMARY: DoD is issuing this notification to set forth an up-to-date list of product categories for which the Federal Prison Industries' share of the DoD market is greater than five percent.

EFFECTIVE DATE: [Insert date of publication in the FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Director, Defense and Acquisition Policy, Attn: Susan Pollack, 3060 Defense Pentagon, Washington, DC 20301-3060; telephone 703-697-8336.

SUPPLEMENTARY INFORMATION:

I. Background:

Section 827 of the National Defense Authorization Act of Fiscal Year 2008, Public Law 110-181, amended DoD's competition requirements for acquisition of products from Federal Prison Industries (FPI). On November 19, 2009, a final rule was published at 74 FR 59914, which amended the Defense Federal

Acquisition Regulation Supplement (DFARS) at subpart 208.6 to implement section 827.

Among other things, section 827 required DoD to publish a list of product categories for which FPI's share of the DoD market was greater than five percent, based on the most recent fiscal year data available. Section 827 also provides for modification of the published list if DoD subsequently determines that new data require adding or omitting a product category from the list.

This notification provides a modified list of FPI product categories exceeding five percent of the DoD market, based on Fiscal Year 2011 data obtained from the Federal Procurement Data System. An identical list is also found in the Director, Defense Procurement and Acquisition Policy (DPAP) memorandum dated January 12, 2012. (The DPAP memorandum with the updated list of product categories for which FPI has a significant market share is posted at:

<http://www.acq.osd.mil/dpap/policy/policyvault/USA007288-11-DPAP.pdf>.)

Accordingly, the updated product categories for which FPI's share of the DOD market is greater than five percent are:

- 3625 (Textile Industries Machinery);
- 3990 (Miscellaneous Materials Handling Equipment);

- 6020 (Fiber Optic Cable Assemblies and Harnesses);
- 7110 (Office Furniture);
- 7230 (Draperies, Awnings, and Shades);
- 8420 (Underwear and Nightwear, Men's); and
- 8465 (Individual Equipment).

Product categories on the updated list, and the products within each identified product category, must be procured using competitive or fair opportunity procedures in accordance with DFARS 208.602-70(c)(1). FPI must be included in the solicitation process and will be considered in accordance with the policy set forth in 8.602(a)(4)(ii) through (v) of the Federal Acquisition Regulation.

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[FR Doc. 2012-2846 Filed 02/07/2012 at 8:45 am; Publication
Date: 02/08/2012]